

Chapter 14.57

NEWSRACKS

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14.57.010 Purpose and Criteria for Regulations.

The purpose of this ordinance is to promote the public health, safety, and welfare through the regulation of placement, appearance, servicing, and insuring of newsracks on public rights-of-way so as to:

- (a) Make B-3 and B-4 zoned districts an active and attractive pedestrian environment;
- (b) Provide the opportunity for creative, colorful, pedestrian-focused commercial activities;
- (c) Promote land conservation, redevelopment, energy savings, and indirect tax revenue;
- (d) Provide for pedestrian and driving safety and convenience;
- (e) Restrict the unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into or egress from any residence or place of business, or from the street to the sidewalk by persons exiting or entering parked or standing vehicles;
- (f) Provide reasonable access for the use and maintenance of poles, posts, traffic signs or signals, hydrants, mailboxes, and access to locations used for public transportation purposes;
- (g) Encourage well-designed and aesthetically compatible newsracks;
- (h) Reduce unnecessary exposure of the city to personal injury or property damage claims; and
- (i) Provide for and maintain the freedom of speech for newspapers or news periodicals using newsracks for distribution purposes. (Ord. 13136 § 2; May 11, 1981).

14.57.020 Definition.

For the purpose of this chapter, newsracks shall mean any type of unmanned device placed upon any public right-of-way for the vending of, or free distribution of, newspapers or news periodicals. (Ord. 13136 § 3; May 11, 1981).

14.57.030 Newsracks Permitted.

Notwithstanding any provisions of the Lincoln Municipal Code to the contrary and subject to the provisions of this chapter, newsracks shall be allowed within the public right-of-way adjacent to the O-1, B-3, and B-4 Zoning Districts and adjacent to P Zoning Districts which abut B-4 Zoning Districts except public right-of-way within those portions of Centennial Mall closed to vehicular traffic, and except public right-of-way adjacent to the state capitol upon the issuance of a permit by the City Clerk. (Ord. 14401 § 1; June 2, 1986; prior Ord. 13977 § 1; October 29, 1984; Ord. 13184 § 1; August 3, 1981; Ord. 13136 § 4; May 11, 1981).

14.57.040 Application for Permit.

An application for permit shall be filed with the City Clerk upon a form provided by such Clerk for that purpose, and shall include the following information:

- (a) The name, address, and telephone number of the applicant;
- (b) The name, address, and telephone number of a responsible person whom the city may notify or contact at any time concerning the applicant's newsracks;
- (c) The number of newsracks and names of newspapers or periodicals to be contained in each newsrack, including any existing newsracks;
- (d) Type or brand of newsrack, including description of the newsrack and supporting or enclosing structure;
- (e) Site plan showing exact location of each newsrack and supporting or enclosing structure and sufficient information to determine that said location complies with Section 14.57.060 of this chapter;
- (f) Such application shall also contain a statement that the applicant will, in consideration of being issued a permit for the use of space, agree to hold harmless the City of Lincoln and the officers and employees of the city for any loss or damage arising out of the use, or the discontinuance of any use; that the applicant understands that the use of the space is to be temporary, on a day-to-day basis; that the applicant shall not acquire any right, title, or interest in such space; that the applicant may be required by the city at any time to vacate all or any part of the space the applicant has been given permission to use; that upon demand to vacate such space, the applicant will promptly remove any personal property placed thereon by such applicant, or reimburse the city for the cost of moving such property; and that the applicant shall have no recourse against either the city or its officers or agents, either for any loss or damage occasioned by the applicant being required to vacate all or part of the space which the applicant has been granted permission to use. (Ord. 13136 § 5; May 11, 1981).

14.57.050 General Regulations.

- (a) In any one block, there shall be no more than twenty-four newsracks and no more than four newsracks dispensing any one publication. There shall be no more than twelve newsracks and no more than two newsracks dispensing any one publication on one side of any street between two intersecting streets.

(b) Newsracks between intersecting streets shall be placed together in one or two groups consisting of one to eight newsracks. Each group shall be separated by a distance not less than one hundred feet. Each newsrack within a group shall be separated no more than two feet from the nearest newsrack.

(c) Newsracks shall be located within twenty feet of a kiosk, or bench, or within forty feet of a bus shelter in those circumstances where such improvements are located on the same side of the street between the same two intersecting streets.

(d) The applicant shall be responsible for any damage or repairs caused by the removal or installation of any newsrack.

(e) All installations shall be under the supervision of the City Sidewalk Inspector.

(f) Newsracks shall carry no advertising except a logo or other information identifying the newspaper may be displayed on the newsrack limited to a height of six inches and width of thirteen inches on the upper two-thirds of the sides, and a height of three inches and width of twenty inches on the bottom one-third of the front.

(g) Newsracks shall be maintained in good working order at all times, freshly painted, and with unbroken hoods.

(h) The name, address, and telephone number of a responsible person who may be contacted at any time concerning the newsrack shall be displayed on the hood of the newsrack in such manner as to be readily visible and readable to a prospective customer thereof.

(i) Each newsrack shall be maintained in accordance with the terms of this chapter and the approved permit. (Ord. 13977 § 2; October 29, 1984: prior Ord. 13706 § 1; October 10, 1983: Ord. 13136 § 6; May 11, 1981).

14.57.060 Standards for Location and Operation.

No newsrack or newsrack enclosure shall be located:

(a) Within five feet of kiosk, bench, trash receptacle, drinking fountain, or bicycle rack, or three feet of mailbox, post, pole, or any area planted with grass, shrubs, flowers; or trees; except that such standards may be waived if pedestrian circulation space between such items and the newsrack is not needed and sufficient space for maintenance of such items and newsracks is provided or if the original design of such items specifically provides for newsracks in an integrated design;

(b) Within five feet of a bus shelter, unless the height of the newsrack does not exceed a height of three and one-half feet measured from the surface of the sidewalk;

(c) Within the sight triangles of street intersections;

(d) So as to reduce the clear, continuous sidewalk width to less than eight feet in the B-4 Zoning Districts and the P Zoning Districts where such district abuts the B-4 Zoning District or to less than six feet in the B-3 Zoning Districts;

(e) Within five feet of any fire hydrant or other emergency facility;

(f) Within five feet of any driveway or alley;

(g) Within five feet ahead of, and twenty feet to the rear of any sign marking a designated bus stop:

(h) Within six feet of a display window or building entrance;

(i) Within one and one-half feet of the curb face;

(j) So as to impair or interfere with pedestrian traffic;

(k) So as to interfere or impair the vision of operators of vehicles at street intersections. (Ord. 13184 § 2; August 3, 1981; prior Ord. 13136 § 7; May 11, 1981).

14.57.070 Dimensions and Design.

The following criteria concerning dimensions and design shall apply:

- (a) No newsrack shall exceed:
 - (1) A height of four feet measured from the surface of the sidewalk or ground;
 - (2) A depth of two feet; or
 - (3) A length of two and one-half feet;
- (b) The color of any newsrack shall be in the neutral range of colors;
- (c) Any newsrack located in any area which has or will be improved under the conditions of the Business Improvement District Act, § 2019-4003, et seq., or Community Development Law, § 2018-2101.01, et seq., shall be enclosed in such material to ensure that the newsracks are harmonious with existing or proposed city improvements, grouping of street furniture, or buildings in terms of scale, mass, character, color, texture, and material. Further, the provisions of this section may be modified by the Mayor to accomplish further the purposes of this title. (Ord. 13136 § 8; May 11, 1981).

14.57.080 Review and Recommendations.

Such application shall be reviewed by the Planning Department in regard to the urban design relationship of the application to the streetscape and the City Sidewalk Inspector relative to the amount of pedestrian movement to be accommodated, the accuracy and appropriateness of the area to be licensed and any recommended changes.

Upon receipt of such reports, the City Clerk shall issue a newsrack permit if the conditions of this chapter have been met. (Ord. 14401 § 2; June 2, 1986; prior Ord. 13136 § 9; May 11, 1981).

14.57.090 Insurance.

The applicant shall be required to:

- (a) At all times maintain public liability insurance in the form of a commercial or comprehensive general liability policy, or an acceptable substitute policy form as permitted by the City Attorney, with a minimum combined single limit of \$500,000.00 aggregate for any one occurrence. The coverages required herein shall be subject to review and approval by the City Attorney for conformance with the provisions of this section;
- (b) At all times keep on file with the City Clerk a current certificate of insurance signed by a qualified agent of an insurance company licensed to do business in the State of Nebraska and approved by the City Attorney for conformance with the provisions of this section evidencing the existence of valid and effective policies of insurance naming the city as an additional insured for the coverage required by subsection (a) of this section, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self-insurance retainers of each policy, and a copy of an endorsement placed on each policy requiring thirty day's notice by mail to the City Clerk before the insurer may cancel the policy for any reason, and upon request of the City Clerk or the City Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies. Any termination or lapse of such insurance shall automatically revoke any permit issued pursuant to this chapter. (Ord. 15654 § 13; July 9, 1990; prior Ord. 13136 § 10; May 11, 1981).

14.57.100 Renewal and Fee.

All permits shall be due and payable on the first day of June of each year, and all permits shall expire on the thirty-first day of May following issuance. After the initial approval of a permit by the City Clerk for a specific location, renewal of such permits shall be made for one year by application to the City Clerk.

There shall be an annual permit fee in the amount of ten dollars for each approved newsrack. (Ord. 14401 § 3; June 2, 1986: prior Ord. 13136 § 11; May 11, 1981).

14.57.110 Revocation; Notice; Hearing.

If at any time it is determined by the City Sidewalk Inspector that any newspaper vending device for which a permit has been issued is not in compliance with the requirements of this chapter, a "notice of intent to revoke" the permit shall be issued, in writing, to the permittee. Said notice shall set forth the violation or violations which constitute the basis of said proposed revocation. Said notice shall contain the date, time, and place for which a hearing is to be had on such charges, said hearing to be held not less than ten days from the time of service of said notice. The permittee may, prior to said hearing, file a written response to said notice specifically setting forth the reason or reasons said permit should not be revoked; or in the alternative, the permittee shall cause said violation or violations to be corrected. If at such hearing, the Director of Public Works and Utilities shall determine that the violations as charged are true and accurate and that the permittee has not caused said violation or violations to be corrected, or if the permittee fails to appear at said hearing and can present no justifiable excuse for said nonappearance, a "notice of revocation" shall issue. If, however, said violation or violations have been corrected, as evidenced by a verified statement of correction by the permittee and upon inspection by the City Sidewalk Inspector, no "notice of revocation" shall issue. (Ord. 16951 §114; March 11, 1996: prior Ord. 13136 § 12; May 11, 1981).

14.57.120 Impoundment.

The City Sidewalk Inspector may cause any newsrack to be impounded under the following circumstances:

- (a) Where its installation, use, or maintenance endangers the safety of persons or property;
- (b) Where its installation, use, or maintenance unreasonably interferes with or impedes the flow of vehicular or pedestrian traffic;
- (c) Where it has been installed without a valid permit.

Whenever any newsrack is impounded, a hearing shall be held pursuant to Section 14.57.110. The owner of any validly impounded newsrack shall be responsible for the expense of removal and storage of such newsrack. Should the newsrack fail to be claimed or the owner fail to pay any money due the city, such newsrack shall be deemed to be unclaimed property and may be disposed of pursuant to law. (Ord. 13136 § 13; May 11, 1981).

14.57.130 Enforcement; Violations and Rules.

It shall be the duty of the City Sidewalk Inspector to enforce the provisions of this chapter. Each day's continuance of a violation shall be considered a separate offense.

The City Sidewalk Inspector may promulgate rules and regulations, not inconsistent with the provisions of this subsection, which he/she deems necessary to properly exercise its jurisdiction. All such rules and regulations shall be filed with the City Clerk. (Ord. 13136 § 14; May 11, 1981).

14.57.140 Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases hereof be declared invalid or unconstitutional. (Ord. 13136 § 15; May 11, 1981).